

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

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GLEND A JIMMO, et al.,

Plaintiffs,

vs.

Case No. 5:11-cv-17

KATHLEEN SEBELIUS, Secretary of  
Health & Human Services,

Defendant.

ORDER PRELIMINARILY APPROVING SETTLEMENT AGREEMENT,  
PRELIMINARILY CERTIFYING THE CLASS, APPROVING CLASS  
NOTICE, AND SETTING FAIRNESS HEARING

The court having fully considered Plaintiffs' and Defendant's Joint Motion  
for Preliminary Approval of the Settlement Agreement and Class Notice,

IT IS HEREBY ORDERED that:

1. The proposed Settlement Agreement and the settlement it embodies are  
PRELIMINARILY APPROVED. Final approval is subject to a fairness  
hearing where any objections of members of the Class will be heard.
2. The proposed Class, as set forth in the Settlement Agreement,  
preliminarily meets the requirements for certification under Rule 23 of  
the Federal Rules of Civil Procedure:

- a. The numerosity requirement of Fed. R. Civ. P. 23(a)(1) is met as the number of class members is sufficiently large such that joinder of all members is impracticable;
- b. The commonality requirement of Fed. R. Civ. P. 23(a)(2) is met because the class claims stem from the same alleged conduct and present common questions of law and fact;
- c. The typicality requirement of Fed. R. Civ. P. 23(a)(3) is met because plaintiffs' claims are the same as the claims of the class members;
- d. The adequacy of representation requirement of Fed. R. Civ. P. 23(a)(4) is met. Plaintiffs have adequately represented the interests of the proposed class and have retained experienced and competent counsel who have negotiated a non-collusive settlement;
- e. The Fed. R. Civ. P. 23(b)(2) requirements are satisfied. The Settlement Agreement provides injunctive relief that is generally applicable to the class.

The proposed Class is therefore PRELIMINARILY CERTIFIED under Rule 23(b)(2) for settlement purposes.


- 3. Pending the determination of the fairness of the Settlement Agreement, all further litigation of this action is hereby STAYED.
- 4. The proposed Notice of Proposed Settlement of Class Action and of Fairness Hearing ("Class Notice") and proposed plan for distribution of Class Notice are APPROVED. Notice will be distributed within twenty

(20) days of this order or by December 10, 2012. The Notice, however, must be amended to reflect the binding nature of any release and judgment.

5. Class members objecting to the terms of the settlement must provide their objections in writing to Class Counsel as outlined in the Class Notice, Section D. Written objections must be forwarded to Class Counsel no later than fourteen (14) days before the fairness hearing, or by January 10, 2013. Class counsel must record the date of receipt of the objection and forward it, via electronic mail, to Defense counsel within five (5) business days of receipt. Class counsel must file the original objections with this court no later than January 18, 2013.
6. A hearing to determine whether the settlement agreement is fair, reasonable and adequate will be held on January 24, 2013 at 10:00 a.m., at the United States District Court for the District of Vermont, 151 West Street, Rutland, Vermont 05701.

**SO ORDERED.**

Dated at Rutland, in the District of Vermont, this 20<sup>th</sup> day of November, 2012.

  
Christina Reiss, Chief Judge  
United States District Court